



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- - - - - X
INNOVATUS CAPITAL PARTNERS, LLC,

Plaintiff,

18 Civ. 4252 (LLS)

- against -

JONATHAN NEUMAN, ANTONY MITCHELL,
RITZ ADVISORS, LLC, GREG WILLIAMS,
DARYL CLARK and AMANDA ZACHMAN,

Defendants.

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MV REALTY, PBC, LLC,

18 Civ. 7142 (LLS)

Plaintiff,

- against -

INNOVATUS CAPITAL PARTNERS, LLC,

MEMORANDUM
OPINION & ORDER

Defendant.

- - - - - X

The issues raised by defendants' October 9, 2020 Motion for Summary Judgment are disposed of as follows:

1.

Innovatus's attempt to enjoin defendants' soliciting of Right to List contracts (an arrangement which Innovatus did not invent, was not the first to market, and could not patent, because of prior art) for six years must be dismissed. It seeks to forbid "any transaction or series of transactions of any kind in connection with the Business Opportunity" although the RTL contracts do not reveal any of Innovatus's confidential information. This type of boundless restriction on competition is unenforceable under New York law. It is not needed to protect

any trade secrets Innovatus may have, for the conduct of the RTL transaction does not reveal them. The balance of "competing public policies in favor of robust competition and freedom to contract", Mathias v. Jacobs, 167 F. Supp. 2d 606, 611 (S.D.N.Y. 2001) strongly argues against this overbroad restraint upon competition.

2.

Nevertheless, if Innovatus's considerable work, effort, research and thought during the period the parties were working together enhanced the results of MV's RTL business, it should be evaluated and, if useful, compensated. That may require a comparison of MV's methods and profitability with those transacting the other "thousands of RTL transactions with homeowners around the country" (Def.'s moving brief, p.14), but in any event will require some discovery and is reserved for trial or further development.

CONCLUSION

Innovatus's claim for an injunction enforcing the restrictive covenant in the NDA is dismissed. Its entitlement to recompense for its contributions, to the extent that they have benefitted the enterprise, is still to be evaluated.

So ordered.

Dated: New York, New York
December 23, 2020

Louis L. Stanton
LOUIS L. STANTON
U.S.D.J.